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Equal Opportunity And Non-Discrimination Without Quotas.

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Bill Jones
Secretary of State

1500 - 11th Street
Sacramento, CA 95814

Elections Division
(916) 657-2166
For Hearing and Speech
Impaired Only: (800) 833-8683

#692

December 28, 1995

TO ALL REGISTRARS OF VOTERS, OR COUNTY CLERKS, AND PROPONENT (95205)

Pursuant to Section 336 of the Elections Code, we transmit herewith a copy of the Title and Summary prepared by the Attorney General on a proposed Initiative Measure entitled:

EQUAL OPPORTUNITY AND
NON-DISCRIMINATION WITHOUT QUOTAS.
INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE.

Circulating and Filing Schedule

1. Minimum number of signatures required 693,230
Cal. Const., Art. II, Sec. 8(b).
2. Official Summary Date Thursday, 12/28/95
Elec. C., Sec. 336.
3. Petition Sections:
 - a. First day Proponent can circulate Sections for
signatures Thursday, 12/28/95
Elec. C., Sec. 336.
 - b. Last day Proponent can circulate and file with
the county. All sections are to be filed at
the same time within each county Tuesday, 05/28/96*
Elec. C., Secs. 336, 9030(a)
 - c. Last day for county to determine total number of
signatures affixed to petition and to transmit total
to the Secretary of State Friday, 06/07/96
Elec. C., Sec. 9030(b)

(If the Proponent files the petition with the county on a date prior to 05/28/96, the county has eight working days from the filing of the petition to determine the total number of signatures affixed to the petition and to transmit the total to the Secretary of State.) Elec. C., Sec. 9030(b).

* Date adjusted for official deadline which falls on Saturday. Elec. C., Sec. 15.

- d. Secretary of State determines whether the total number of signatures filed with all county clerks meets the minimum number of required signatures, and notifies the counties Sunday, 06/16/96**
Elec. C., Sec. 9030(c)
- e. Last day for county to determine total number of qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State Monday, 07/29/96
Elec. C., Sec. 9030(d)
- (If the Secretary of State notifies the county to determine the number of qualified voters who signed the petition on a date other than 06/16/96, the last day is no later than the thirtieth day after the county's receipt of notification.)
Elec. C., Sec. 9030(d), (e).
- f. If the signature count is more than 762,553 or less than 658,569 then the Secretary of State certifies the petition has qualified or failed, and notifies the counties. If the signature count is between 658,569 and 762,553 inclusive, then the Secretary of State notifies the counties using the random sampling technique to determine the validity of all signatures Thursday, 08/08/96**
Elec. C., Secs. 9030(f), (g); 9031(a)
- g. Last day for county to determine actual number of all qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State Monday, 09/23/96
Elec. C., Sec. 9031(b), (c)
- (If the Secretary of State notifies the county to determine the number of qualified voters who have signed the petition on a date other than 08/08/96, the last day is no later than the thirtieth working day after county's receipt of notification.)
Elec. C., Sec. 9031(b), (c).
- h. Secretary of State certifies whether the petition has been signed by the number of qualified voters required to declare the petition sufficient Friday, 09/27/96**
Elec. C., Sec. 9031(d), 9033

** Date varies based on receipt of county certification.

EQUAL OPPORTUNITY AND
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INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE.
December 28, 1995
Page 3

4. The Proponent of the above-named measure is:

David B. Oppenheimer
c/o Barry Fadem
Bagatelos & Fadem
601 California Street, Suite 1801
San Francisco, CA 94104
(415) 982-7100

5. Important Points:

- (a) California law prohibits the use of signatures, names and addresses gathered on initiative petitions for any purpose other than to qualify the initiative measure for the ballot. This means that the petitions cannot be used to create or add to mailing lists or similar lists for any purpose, including fund raising or requests for support. Any such misuse constitutes a crime under California law. Elections Code section 18650; Bilofsky v. Deukmejian (1981) 123 Cal.App. 3d 825, 177 Cal.Rptr. 621; 63 Ops. Cal.Atty.Gen. 37 (1980).
- (b) Please refer to Elections Code sections 100, 101, 104, 9001, 9008, 9009, 9021, and 9022 for appropriate format and type consideration in printing, typing, and otherwise preparing your initiative petition for circulation and signatures. Please send a copy of the petition after you have it printed. This copy is not for our review or approval, but to supplement our file.
- (c) Your attention is directed to the campaign disclosure requirements of the Political Reform Act of 1974, Government Code section 81000 et seq.
- (d) When writing or calling state or county elections officials, provide the official title of the initiative which was prepared by the Attorney General. Use of this title will assist elections officials in referencing the proper file.
- (e) When a petition is presented to the county elections official for filing by someone other than the proponent, the required authorization shall include the name or names of the persons filing the petition.
- (f) When filing the petition with the county elections official, please provide a blank petition for elections official use.

NOTE TO PROPONENTS WHO WISH TO QUALIFY FOR THE NOVEMBER 5, 1996 GENERAL ELECTION: This initiative must be certified for the ballot 131 days before the election (June 27, 1996). Please remember to time your submissions accordingly. For example, in order to allow the maximum time permitted by law for the random sample verification process, it is suggested that proponents file their petitions to county elections officials by April 19, 1996. If a 100% check of signatures is necessary, it is advised that the petitions be filed by February 28, 1996.

Sincerely,


CATHY MITCHELL
ELECTIONS SPECIALIST

DANIEL E. LUNGREN
Attorney General

State of California
DEPARTMENT OF JUSTICE



1300 I STREET, SUITE 125
P.O. BOX 944255
SACRAMENTO, CA 94244-2550
(916) 445-9555

Facsimile: (916) 323-2137
(916) 324-5490

December 28, 1995

FILED

In the office of the Secretary of State
of the State of California

DEC 28 1995

Bill Jones
Secretary of State
1500 - 11th Street
Sacramento, CA 95814

BILL JONES, Secretary of State
By [Signature]
Deputy Secretary of State

Re: Initiative Title and Summary
Subject: EQUAL OPPORTUNITY AND NON-DISCRIMINATION WITHOUT QUOTAS.
INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE.
File No: SA 95 RF 0036

Dear Mr. Jones:

Pursuant to the provisions of sections 9004 and 336 of the Elections Code, you are hereby notified that on this day we mailed to the proponent of the above-identified proposed initiative our title and summary.

Enclosed is a copy of our transmittal letter to the proponent, a copy of our title and summary, a declaration of mailing thereof, and a copy of the proposed measure.

According to information available in our records, the name and address of the proponent is as stated on the declaration of mailing.

Sincerely,

DANIEL E. LUNGREN
Attorney General

[Signature]

KATHLEEN F. DaROSA
Initiative Coordinator

KFD:ms
Enclosures

Date: December 28, 1995
File No: SA95RF0036

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

EQUAL OPPORTUNITY AND NON-DISCRIMINATION WITHOUT QUOTAS.

INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE. Amends state constitution to require all state government instrumentalities to ensure equal opportunity in public employment, education and contracting and to prevent race, sex, age, color, ethnic, national origin discrimination. Prohibits use of quotas based on these characteristics in public employment, education or hiring. Prohibits affirmative action programs using quotas or that hire or select unqualified persons based on prohibited characteristics. Exempts state actions necessary for receipt of federal funds. Allows courts to remedy effect of discrimination. Adds statute to penalize fraudulent benefit from affirmative action programs. Provisions severable. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: Potential annual savings in state higher education programs of up to \$30 million and would make up to \$38 million available in public schools and community colleges for other educational programs. Potential, but unknown costs, for public entities to "ensure equal opportunity" and "prevent discrimination."

DAVID B. OPPENHEIMER
301 HIGHLAND AVENUE
PIEDMONT, CA 94611
Phone: 510 595 0254
Fax: 510 595 0366
e-mail: dbo@ggu.edu

RECEIVED
OCT 30 1995

October 27, 1995

Office of the Attorney General
Department of Justice
1515 K Street
Sacramento, California 95814

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Attn: Kathleen DaRosa, Initiative Coordinator

Re: California Equal Opportunity and Non-Discrimination Initiative


Dear Ms. DaRosa:

Pursuant to Elections Code Section 9002, we request the Attorney General to prepare a title and summary of an initiative measure entitled "California Equal Opportunity and Non-Discrimination Initiative." The text of the measure, a check for \$200, and the address at which I am registered to vote are attached.

Please direct all correspondence and inquiries regarding this measure to my attorney:

Barry Fadem, Esq.
Bagatelos & Fadem
601 California Street, Suite 1801
San Francisco, CA 94104
Telephone: (415) 982-7100
Fax: (415) 982-1085

Sincerely,


David B. Oppenheimer
Associate Professor of Law
Golden Gate University

Address at which I am registered to vote:
301 Highland Avenue
Piedmont, CA 94611

CALIFORNIA EQUAL OPPORTUNITY AND NON-DISCRIMINATION INITIATIVE

October 30, 1995

10:00 a.m.

SECTION 1.

The people of California believe that everyone should have an equal opportunity to succeed regardless of race, sex, age, color, ethnicity, or national origin. Therefore, to ensure equal opportunity and prevent discrimination in public employment, education and contracting, the people of California enact this measure which shall be known as the "California Equal Opportunity and Non-Discrimination Initiative."

SECTION 2.

Section 7.5 is hereby added to Article 1 of the California Constitution to read as follows:

(a) The state shall ensure equal opportunity in public employment, education and contracting and shall prevent discrimination based on race, sex, age, color, ethnicity, or national origin.

(b) The state is prohibited from using quotas that require hiring or selecting persons in public employment, education and contracting, based on race, sex, age, color, ethnicity, or national origin.

(c) The state shall not operate any affirmative action program that uses quotas or hires or selects unqualified persons, based on race, sex, age, color, ethnicity, or national origin.

(d) In prohibiting the state from using quotas under this section, "quota" shall mean a fixed number or percentage which, without regard to qualifications, must be attained or cannot be exceeded.

(e) For the purposes of this section, "state" shall include, but not necessarily be limited to, the state itself, any city, county, city and county, public university systems, including the University of California, community college district, school district, special district, or any other political subdivision or governmental instrumentality of or within the state.

(f) Nothing in this section shall be interpreted as limiting the ability of courts to correct the effects of discrimination.

(g) Nothing in this section shall be interpreted as prohibiting action which must be taken to establish or maintain eligibility for any federal program, where ineligibility would result in a loss of federal funds to the state.

SECTION 3.

Section 2055.5 is hereby added to the Public Contracting Code to read as follows:

Public Contracting Code Section 2055.5. Fraud; suspension from bidding

Any person who knowingly and fraudulently benefits from a state affirmative action program shall be prohibited from bidding on or receiving an award of a state contract or subcontract for a period of not less than one year nor more than three years.

For purposes of this section, "state" shall include, but not necessarily be limited to, the state itself, any city, county, city and county, public university systems, including the University of California, community college district, school district, special district, or any other political subdivision or governmental instrumentality of or within the state.

SECTION 4.

If any provision of this initiative or the application thereof to any person or circumstances is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this initiative which can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this initiative are severable.

SECTION 5.

To avoid needless litigation, this measure shall supersede any and all other measures on the same ballot related to discrimination in public employment, education and contracting, provided this measure receives more votes than the other measures.

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